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Andreas Eipper

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EXAMINER

LEE, DORIS L

ART UNIT

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1796

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Attachment to Advisory Action***

1. Applicant's response filed July 8, 2010 has been fully considered but is not persuasive for the reasons set forth below:

2. **Applicant's argument:** The applicant has submitted terminal disclaimers as well as a statement of common ownership at the time of the invention and as such requests that the double patenting rejections be withdrawn.

**Examiner's response:** *The double patenting rejections set forth in paragraphs 4-23 of the office action mailed on March 11, 2010 have been withdrawn in light of applicant's filing of terminal disclaimers and stating that the present application and the copending applications were commonly owned at the time of the invention.*

3. **Applicant's argument:** Gareiss does not disclose the highly branched or hyperbranched polyesters employed according to the present invention.

**Examiner's response:** *The examiner acknowledges the Gareiss does not teach the hyperbranched polyesters; however, Dvornic is used as the secondary reference to teach in the hyperbranched polyester.*

4. **Applicant's argument:** Dvornic includes in a long list of possible polymers the branched polyester; in addition, Dvornic does not use polyester in any of the examples.

**Examiner's response:** *As Dvornic teaches hyperbranched polyesters, it reads on the claimed limitations. It is noted that nonpreferred disclosures can be used. A nonpreferred portion of a reference disclosure is just as significant as the preferred portion in assessing the patentability of claims." See In re Nehrenberg, 280 F.2d 161, 126 USPQ 383 (CCPA 1960).*

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5. **Applicant's argument:** Dvornic does not discuss blends of thermoplastic polymers and highly branched polymers but just hyperbranched polymers.

**Examiner's response:** *Dvornic teaches that the addition of these hyperbranched polymers can improve thermoplastic processing characteristics ([0004]) and therefore is taught that they can be added to thermoplastic compositions.*

6. **Applicant's argument:** Dvornic does not teach all the recitations of the claim method.

**Examiner's response:** *It is noted that the claims are compositional claims written in product-by-process format and as such, the prior art does not need to teach all the recitations of the claimed method as long as the prior art does meet any structural limitations that are imposed on the composition via the process steps.*

7. **Applicant's argument:** Problems exist in including dendrimeric polyesters in polyester molding compositions, a possible negative teaching that should be considered.

**Examiner's response:** *As neither prior art references indicates a teaching away to preclude the combination of the two references, the combination of the references is considered to be appropriate.*

8. **Applicant's argument:** The cited references provide no guidance as to what result effective variable is achieved, i.e., good flowability with good mechanical properties. Applicants argue unexpected results.

**Examiner's response:** *The examiner has considered the data presented in the specification of the present invention and determined that the showing of unexpected*

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*results is not persuasive. Most notably, the data is not commensurate with the scope of the claimed invention. For example, applicant claims component A) can be present in the range from 10 to 99.9% by weight. However, applicant provides data mainly in the 90-99 wt % range. Although there is one inventive sample in Table 1 (page 29) of the specification which has component A) present at 65 % by weight, there is no corresponding comparative data point to provide any indication of the performance of this particulate inventive example with a proper side-by-side comparison. The dataset does not provide enough information to fully understand the qualities of the composition throughout the scope of the claimed range of 10 to 99.9% by weight. It is also noted that applicant's argument that the comparative Example 1C has a much lower flow spiral compared to that of the inventive examples and that the inventive example have a much higher flow spiral value while maintaining mechanical properties. However, the examiner notes Example 9, which is an inventive example, has the same mechanical properties as the comparative example, and yet has a lower flow spiral value. As such, applicant's argument of unexpected results is not persuasive.*

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doris L. Lee whose telephone number is (571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/  
Examiner, Art Unit 1796

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Supervisory Patent Examiner, Art Unit 1796